

**WRONGFUL DEATH AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill expands the definition of "heirs" to include a wrongful death designee.

**Highlighted Provisions:**

This bill:

- ▶ defines wrongful death designee as a person who:
  - is designated as the only wrongful death heir in the decedent's will, trust, or other notarized written directive; and
  - has been adjudicated by a court of competent jurisdiction, by clear and convincing evidence, to have had a mutual supportive and dependent relationship with the decedent.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78B-3-105**, as renumbered and amended by Laws of Utah 2008, Chapter 3

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **78B-3-105** is amended to read:

**78B-3-105. Definition of heir.**

(1) As used in Sections 78B-3-106 and 78B-3-107[, "heirs"]:

(a) "Heirs" means[~~-(1)~~] the following surviving persons:

[~~(a)~~] (i) A the decedent's spouse; or

(B) if no spouse, the decedent's wrongful death designee as defined in Subsection (2);

[~~(b)~~] (ii) the decedent's children as provided in Section 75-2-114;

(iii) the decedent's stepchildren who:

33 (A) are in their minority at the time of decedent's death; and

34 (B) are primarily financially dependent on the decedent; and

35 ~~[(c)]~~ (iv) the decedent's natural parents, or if the decedent was adopted, then [his] the  
36 decedent's adoptive parents[;].

37 ~~[(d) the decedent's stepchildren who:]~~

38 ~~[(i) are in their minority at the time of decedent's death; and]~~

39 ~~[(ii) are primarily financially dependent on the decedent.]~~

40 ~~[(2)]~~ (b) "Heirs" [means] includes any blood relative as provided [by the law of  
41 intestate succession if] in Title 75, Chapter 2, Intestate Succession and Wills, only when the  
42 decedent is not survived by [a] at least one person under [Subsections] Subsection (1)(a)[, (b),  
43 or (c)].

44 (2) "Wrongful death designee" means a person who:

45 (a) is designated as the sole wrongful death heir in the decedent's will, trust, or other  
46 notarized written directive; and

47 (b) has been adjudicated by a court of competent jurisdiction, by clear and convincing  
48 evidence, to have had a mutually supportive and dependent relationship with the decedent.

49 (3) In determining whether a person has been in a mutually supportive and dependent  
50 relationship with the decedent, a court of competent jurisdiction must find by clear and  
51 convincing evidence that, at the time of the decedent's death:

52 (a) the person shared a residence with the decedent;

53 (b) the decedent designated the person as the beneficiary of the decedent's:

54 (i) life insurance policy;

55 (ii) retirement benefit;

56 (iii) health insurance policy; or

57 (iv) will or trust; and

58 (c) the person and decedent comingled assets and shared liabilities.